

In the Supreme Court of the State of Idaho

IN RE: AMENDMENT OF IDAHO)
RULES OF CIVIL PROCEDURE)
(I.R.C.P.) 83(a) and FILING FEE SCHEDULE)

ORDER AMENDING RULES

The Court having reviewed a recommendation to amend Rule 83(a) and the Filing Fee Schedule of the Idaho Rules of Civil Procedure, and the Court having reviewed the proposed amendments and having approved them;

NOW, THEREFORE, IT IS HEREBY ORDERED that the Idaho Rules of Civil Procedure as they appear in the volume published by the Idaho Code Commission be, and they are hereby, amended as follows:

1. That Rule 83(a) be, and the same is hereby, amended to read as follows:

Rule 83(a). Appeals from decisions of magistrates.

An appeal from any order granting or denying a petition for termination of parental rights or granting or denying a petition for adoption must be taken to the Supreme Court in accord with Idaho Appellate Rule 11.1. Otherwise, absent an order allowing a permissive appeal pursuant to Idaho Appellate Rule 12.1, an appeal must first be taken to the district judges division of the district court from any of the following judgments, orders or decisions rendered by a magistrate:

(1) A final judgment in a civil action or a special proceeding commenced, or assigned to the magistrate's division of the district court.

(2) Any of the orders, judgments or decrees in an action in the magistrate's division which would be appealable from the district court to the Supreme Court under Rule 11 of the Idaho Appellate Rules.

(3) Interlocutory orders by permissive appeal accepted by the district court which shall be processed in the same manner as provided by Rule 12 of the Idaho Appellate Rules.

(4) Any order, judgment or decree by a magistrate in a special proceeding in which an appeal is provided by statute.

Provided, however, that whenever the ~~Supreme Court, upon petition of the administrate district judge of a judicial district, assigns~~ an attorney magistrate is assigned by an order issued pursuant to Rule 82(c)(4) or Rule 82(c)(5) to hear any action which may otherwise be tried only by a district judge, any appeal taken from a judgment of such magistrate acting under such order shall be made to the Supreme Court of Idaho, unless otherwise provided by the original order of assignment.

2. That the Filing Fee Schedule that appears as Appendix "A" to the Idaho Rules of Civil Procedure as they appear in the volume published by the Idaho Code Commission be, and the same is hereby, amended as follows:

SEE "FILING FEE SCHEDULE" ATTACHED HERETO


IT IS FURTHER ORDERED, that this order shall be effective on the first day of July, 2010.

IT IS FURTHER ORDERED, that the above designation of the striking of words from the Rule by lining through them is for the purposes of information only as amended, and NO OTHER AMENDMENTS ARE INTENDED. The lining through shall not be considered a part of the permanent Idaho Rules of Civil Procedure.

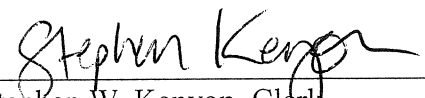
IT IS FURTHER ORDERED, that the Clerk of the Court shall cause notice of this Order to be published in one issue of *The Advocate*.

DATED this 30 day of April, 2010.

By Order of the Supreme Court


Daniel T. Eismann
Chief Justice

ATTEST:


Stephen W. Kenyon, Clerk

I, Stephen W. Kenyon, Clerk of the Supreme Court of the State of Idaho, do hereby certify that the above is a true and correct copy of the Order entered in the above entitled cause and now on record in my office.
WITNESS my hand and the Seal of this Court 5/3/10

STEPHEN W. KENYON

Clerk
By:  Deputy

APPENDIX “A”

FILING FEE SCHEDULE - DISTRICT COURT AND MAGISTRATE DIVISION DISTRICT COURT FILING FEES

COMMENCING A CIVIL ACTION

A civil action is commenced by filing a complaint, petition, application, or other document that begins a new civil lawsuit. A civil action is commenced if the clerk opens a new case file rather than filing the document in an existing case file. Whether a filing fee is charged does not depend upon the title or name of the document filed, but upon whether it commences a new case.

In a civil lawsuit, a party usually seeks to obtain an order or judgment from the court against another party. However, there are some times when a clerk will have to file a document, such as registering a trust, when it will not commence a lawsuit. In such instances, no filing fee will be charged.

Only one filing fee is charged even if the complaint, petition, or application includes two or more separate claims for relief. If the claims would have differing filing fees if they were filed as separate actions, then the appropriate fee is whichever is higher; for example, if one action was filed to have a marriage annulled or, if that were denied, to obtain a divorce, the appropriate filing fee would be the fee for filing a divorce action because it is higher than the filing fee for an annulment. Likewise, if one action was filed to compromise a minor’s claim and to appoint a conservator, the appropriate filing fee would be for the appointment of a conservator.

The fee for opening any civil case not found on this schedule is \$88.00, and the correct filing fee code is “A”.

APPEARING IN A CIVIL ACTION (Category I)

An appearance is the first document filed by a party (other than the plaintiff or petitioner) in an existing civil action, regardless of whether it is filed *pro se* or through counsel and regardless of the title of the document (e.g., “notice of appearance,” “answer,” “motion,” or other title).

If a party acting *pro se* has already filed an appearance in an action and then an attorney later files a “notice of appearance” to appear on behalf of that party, the attorney’s “notice of appearance” does not constitute an appearance for the purpose of assessing a filing fee because the party has already appeared in the action *pro se*.

Fee Category	Idaho Code Fund	Judges Retire. Fund	County Facility Fund	State	State/ Guard- ship Project Fund	County Dist. Ct. Fund	ISTARS Tech. Fund	Senior Mag. Judges Fund	Total
A. All initial civil case filings of any type not listed in categories B-H, including: <ol style="list-style-type: none"> Adoptions Adoption and Termination of parental rights Termination of parental rights Personal injury Petition for formal probate Application for informal probate Name change Permission to marry Child Support (unless filed by DHW) Habeas by prisoners Paternity action Unlawful detainer <u>Defacto custodian</u> <u>Relief from firearm disability</u> 	10.00	18.00	10.00	17.00		17.00	10.00	6.00	88.00
B. 1. Divorce State portion includes additional \$20 displaced homemaker fund and additional \$20 domestic violence fund district court fund includes \$5.00 taken from the State General Fund fee, which shall be separately identified and deposited in the District Court Fund, for establishing a uniform system of qualifying counselors in domestic violence cases. I.C. § 31-3201A(q)	10.00	18.00	10.00	52.00		23.00	10.00	6.00	129.00
2. Motion to reopen or modify divorce	10.00	18.00	10.00	15.00		17.00		6.00	76.00
3. Amended complaint to convert an action that was not one for divorce (e.g. separate maintenance) into an action for divorce (\$1.00 for court clerk fees I.C. § 39-266 & \$20 for the displaced homemaker account I.C. § 39-5009 & \$20 domestic violence project, I.C. § 39-5213)				41.00					41.00
C. Small claims		18.00	10.00			7.00		6.00	41.00
D. Summary administration of small estates			10.00	17.00		17.00	10.00	6.00	60.00
E. Petition for release from common law lien						35.00			35.00
F. Petition for entry of judgment on worker's comp award	10.00	18.00	10.00			9.00		6.00	53.00
G. 1. Guardianships <ol style="list-style-type: none"> Initial Petition motion or appearance by any person on behalf of a minor. Initial Petition motion or appearance by any person on behalf of an incapacitated person. 	10.00	18.00	10.00	17.00	50.00	17.00	10.00	6.00	138.00

[illegible]

1. The fees set out in Category I apply to the first document filed by a party <u>other than</u> the plaintiff or petitioner no matter what the document is entitled 1. Initial Appearance by persons other than the plaintiff or petitioner a. <u>Motion for Permissive Intervention – Defacto custodian</u>	10.00 10.00	18.00 18.00		10.00 10.00		4.00 4.00	10.00 10.00	6.00 6.00	58.00 58.00
2. Small Claims									No fee
3. Stipulation for entry of judgment									No fee
4. Any objection or motion filed in a guardianship or conservatorship by the minor or alleged incapacitated person									No fee
5. Appearing after judgment when the party has not previously appeared	10.00	18.00	10.00			9.00	10.00	6.00	63.00
J. Additional filings in probate and trusts: the following fees shall be collected from any person filing the following documents, whether or not the person has appeared previously: 1. Probate a. petition for distribution of estate b. demand for notice c. demand for bond after appointment of personal representative d. intermediate or final accounting of personal rep e. petition for approval of compromise f. filing of copy of appointment of foreign personal representative 2. Trusts and Renunciations a. intermediate or final accounting of trustee b. petition for final distribution of estate				13.00		6.00 9.00 9.00 9.00 4.00 17.00		6.00	25.00 9.00 9.00 9.00 14.00 27.00
				10.00					
				10.00					
						9.00			9.00
				13.00		6.00		6.00	25.00
K. Special Filings 1. Order granting change of venue (pay to new county). 2. Petition to reopen a case after no activity for one year 3. Third party complaint – This fee is <i>in addition</i> to any fee filed as a plaintiff initiating the case or as a defendant appearing in the case						9.00			9.00
	10.00	18.00	10.00			9.00		6.00	53.00
						8.00		6.00	14.00

4. Cross claim (defendant v defendant or plaintiff v. plaintiff) This fee is <i>in addition</i> to any fee filed as a plaintiff to initiate the case or as a defendant appearing in the case						8.00		6.00	14.00
5. Counterclaim for divorce when the complaint did not allege a claim for divorce *(\$1.00 for court clerk fees I.C. § 39-266 & \$20 for the displaced homemaker account I.C. § 39-5009 & \$20 domestic violence project, I.C. § 39-5213)				41.00					41.00
6. Renewing a judgment						9.00			9.00
7. Filing a foreign judgment						7.00			7.00
L. Appeals									
1. Small claims Dept to magistrate	10.00	18.00	10.00			9.00		6.00	53.00
2. Magistrate Division to District court	10.00	18.00	10.00			9.00		6.00	53.00
3. Appeal or petition for judicial review or cross appeal or cross-petition from commission, board, or body to district court	10.00	18.00	10.00	17.00		17.00	10.00	6.00	88.00
<u>a. Petition for judicial review of IDWR adjudication of water rights</u>	10.00	18.00	10.00	17.00		17.00	10.00	6.00	88.00
4. Civil appeal or cross-appeal to Supreme Court (with exception of a. and b. below) District court fee \$9.00; Supreme Court fee \$86.00. The clerk of the district court shall collect the entire fee and remit the \$86.00 fee to the Supreme Court with a certified copy of the notice of appeal. Rule 23(b), I.A.R.) <u>a. Post-Conviction</u> <u>b. Habeas Corpus</u>	\$86.00 Sup. Ct.					9.00		6.00	101.00 <u>No fee</u> <u>No fee</u>